



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,615	03/10/2004	Michael Jerry Brown	E0616-00001	4075

7590 04/06/2005

DUANE MORRIS LLP  
Suite 100  
100 College Road West  
Princeton, NJ 08540

EXAMINER
----------

NGUYEN, CHI Q

ART UNIT	PAPER NUMBER
----------	--------------

3635

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/797,615

Applicant(s)

BROWN, MICHAEL JERRY

Examiner

Chi Q Nguyen

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

Claim 11 is objected to because of the following informalities: the independent claim 1 is drawn to a telescoping pier foundation system and this including upper end functioned as fill port for receiving cementitious mixture, therefore the cementitious is not positively claimed. However, in claim 11, the applicant cited this limitation "wherein the cementitious mixture is concrete". Clarification is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-20, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffmann (US 5,515,655).

In regard claims 1, 2, 5, Hoffmann teaches adjustable, telescoping structural support system comprising a stationary portion 30 of a hollow structure having a top end opening; at least one telescoping member 28 of a hollow structure having a top open end, in longitudinal alignment with the stationary portion, residing within the top end of the stationary portion and longitudinally movable within the top end opening and extendable through the top end opening, and at least one fill port 32 is on the telescoping member 28. Hoffmann teaches the structural elements of the telescoping support as claimed therefore it would capable to perform the similar function.

However, Hoffmann does not show the bottom end of the telescoping member 28 open. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to have a telescoping member 28 open at bottom end. The motivation for doing so would have been to let concrete material flows all the way to the bottom end of the foundation.

In regard claim 3, Hoffmann teaches the claimed invention wherein the fill port 32 is provided near the top of the telescoping member 28.

In regard claims 6, 7, Hoffmann teaches the claimed invention wherein the system further comprising at least one ground helical anchor 74 (fig. 5).

In regard claims 8, 22, Hoffmann teaches the claimed invention wherein the telescoping member 28 comprises a fastening system 22 comprises plate 50 functions as anchoring portion (fig. 8).

In regard claim 9, Hoffmann teaches the claimed invention wherein the fastening system 22 comprises one or more brackets 60 for engaging the structural member of a building.

In regard claim 10, Hoffmann teaches the claimed invention wherein the fastening system comprises a connector 66 for securing the one or more bracket to the telescoping member 28.

In regard claim 12, Hoffmann teaches the claimed invention wherein the stationary portion 30 comprises a base 84, a column portion 20, wherein the top end opening is provided on the column portion (fig. 8).

In regard claims 13, 15, 17, and 19, Hoffmann teaches the claimed invention as stated except for the stationary portion which including the base and the column portions, and the at least one telescoping member are made from polyvinylchloride (PVC). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the stationary portion and the telescoping member are made from PVC, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416. The motivation for doing so would have been to provide a lightweight for the system.

In regard claims 14, 16, 18, and 20, Hoffmann teaches the claimed invention as stated except for the stationary portion which including the base and the column portions, and the at least one telescoping member are made from a metal alloy. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the stationary portion and the telescoping member are made from metal alloy, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416. The motivation for doing so would have been to provide more rigidity for the system.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffmann '655 in view of Thomas (US 5,363,610).

In Hoffmann teaches the structural elements for the adjustable telescoping support system as stated except for wherein a plurality of reinforcement ribs are provided joining the base and the column portion.

Thomas teach seismic anchor having a stationary portion, which comprises a base portion 48, a column portion 40. The stationary portion having a plurality of reinforcement ribs 46 are provided joining the base and the column portion (fig. 2). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Hoffmann with Thomas for a plurality of reinforcement ribs are provided joining the base and the column portion. The motivation for doing so would have been to provide reinforcement and stability for a column portion.

Claims 4, 23, 34-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffmann '655 in view of Burkland (US 3,795,465).

In regard claims 4, 21, and 34, Hoffmann teaches adjustable telescoping structural support system, wherein an outer shell comprising a stationary portion of a hollow structure, at least one telescoping member defined an internal cavity and at least one fill port as stated above. However, Hoffmann does not teach a core of cured cementitious material substantially filling the internal cavity and the fill port for receiving a cementitious mixture comprises a check valve. Burkland teaches concrete building construction comprising an outer shell 16, internal cavity filled with concrete or cementitious material 28c having a check valve 52 (fig. 5). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Hoffmann with Burkland for the internal cavity filled with concrete or cementitious material, which

including a check valve. The motivation for doing so would have been provide stronger support capability for the telescoping support system and preventing the back flow of cementitious material.

In regard claims 35-38, Hoffmann and Burkland teach the claimed invention wherein the at least one telescoping member 28 comprising a fastening system 22 having one or more brackets 60, a connector 64, a plate 50 function as an anchoring portion (fig. 8).

Claims 24-33, and 39-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffmann in view of Burkland and further in view of Minor (US 3,630,474).

In regard claims 24, 29, Hoffmann and Burkland teach the structural elements for the telescoping pier foundation system as stated above except for a ground anchor having a top portion and a shaft portion, wherein the shaft portion of the ground anchor is driven into the ground beneath the composite pier foundation and the top portion is embedded in the cured cementitious material. Minor teaches a support system having a plurality of anchors 22, each of the anchor having a top portion embedded in a concrete or cementitious material 20 and a shaft portion is driven into the ground (fig. 1). At the time of the invention it would have been obvious to a person of ordinary skill in the art to combine Hoffmann, and Burkland with Minor for specifically arrangement of the anchor top portion embedded in the concrete material and the shaft portion is driven into the ground beneath the foundation. The motivation for doing would have been to enhance the integrity and stronger support for the system.

In regard claims 25, 26, 30, and 32, Hoffmann, Burkland, and Minor teach the structural elements for the pier support system as stated except for the stationary portion, which having the base and the column portion, and at least one telescoping member are made from PVC. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the stationary portion and the telescoping member are made from PVC, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416. The motivation for doing so would have been to provide a lightweight for the system.

In regard claims 27, 28, 31, and 33, Hoffmann, Burkland, and Minor teach the structural elements for the pier support system as stated except for the stationary portion, which comprising the base, and the column portion, and at least one telescoping member is made from a metal alloy. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the stationary portion and the telescoping member are made from a metal alloy material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416. The motivation for doing so would have been to provide a stronger support and a better integrity for the system.

In regard method claims 39-40, Hoffmann, Burkland, and Minor teach the structural elements for the pier support system as stated except for the method steps of installing a telescoping pier foundation system as taught by the applicant, examiner



Art Unit: 3635

considers this to be the obvious method of setting up device because in forming a telescoping pier foundation, one must obviously position a base portion, secure the base portion to ground by using anchor, insert a telescoping member into an opening of the base portion, pour in concrete material, secure building structures to the telescoping member after the concrete material cured by using fastening means, which comprises connector, and brackets. Hoffmann, Burkland, and Minor would be motivated to follow these steps to facilitate assembly to make a stronger pier support system.


### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cusimano, Tkach, Coulter, Jenner, Linse, Dibernardi, and Nagashima teach telescoping support structure.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847, Mon-Thu (7:00-5:30), Fridays off or examiner's supervisor, Carl Friedman can be reached at (571) 272-6842. The examiner's right fax number is (571) 273-6847.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairedirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197.

CQ/N  
3/25/05

  
Naoko Slack  
Primary Examiner